

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
RICHMOND DIVISION

-----  
ePLUS, INC.

vs.

LAWSON SOFTWARE, INC.  
-----

:  
: Civil Action No.  
: 3:09CV620  
:  
:  
: January 7, 2011  
:

COMPLETE TRANSCRIPT OF THE JURY TRIAL

BEFORE THE HONORABLE ROBERT E. PAYNE

UNITED STATES DISTRICT JUDGE, AND A JURY

APPEARANCES:

Scott L. Robertson, Esquire  
Michael G. Strapp, Esquire  
Jennifer A. Albert, Esquire  
David M. Young, Esquire  
Goodwin Procter, LLP  
901 New York Avenue NW  
Suite 900  
Washington, D.C. 20001

Craig T. Merritt, Esquire  
Christian & Barton, LLP  
909 East Main Street  
Suite 1200  
Richmond, Virginia 23219-3095  
Counsel for the plaintiff

Peppy Peterson, RPR  
Official Court Reporter  
United States District Court

1 APPEARANCES: (cont'g)

2 Dabney J. Carr, IV, Esquire  
3 Troutman Sanders, LLP  
4 Troutman Sanders Building  
1001 Haxall Point  
Richmond, Virginia 23219

5 Daniel W. McDonald, Esquire  
Kirstin L. Stoll-DeBell, Esquire  
6 William D. Schultz, Esquire  
Merchant & Gould, PC  
7 80 South Eighth Street  
Suite 3200  
8 Minneapolis, Minnesota 55402

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

P R O C E E D I N G S

THE CLERK: Civil action number 3:09CV620, ePlus, Incorporated, versus Lawson Software, Incorporated. Mr. Scott L. Robertson, Mr. Craig T. Merritt, Ms. Jennifer A. Albert, Mr. Michael G. Strapp, and Mr. David Young represent the plaintiff.

Mr. Daniel W. McDonald, Mr. Dabney J. Carr, IV, Ms. Kirstin L. Stoll-DeBell, and Mr. William D. Schultz represent the defendant. Are counsel ready to proceed?

MR. ROBERTSON: Yes, Your Honor.

MR. McDONALD: Yes, sir.

THE COURT: Good morning. Good morning, ladies and gentlemen. I was informed by the clerk that you all needed to know the procedure for asking questions, and if you have questions, it's all right.

I think the best way to do this is for you to write your question out and then send it up to Mr. Neal, and he'll give it to me, because there's some kind of questions that, perhaps, are better -- I will tell you immediately, I can't answer that or we can't get into that.

Others -- and I found this to be the case most of the time. Other questions are very helpful to the lawyers to have, because if you have -- you are the ones who have to decide the case, and if you have a question, they need to know it and need to work out a way to get the information to you through their

1 questions.

2           So if you feel like you have a question, you can  
3 write them out, send them to me, and I'll take them and look at  
4 them. Unless it's something that I can't allow, we'll work out  
5 a way to get you the information that you need.

6           You all look like you're not as drained as you were  
7 when you left yesterday afternoon. I feel the same way, so  
8 let's get a fresh start. Let's go ahead, Mr. Robertson.

9           MR. ROBERTSON: Thank you, Your Honor. Good morning.

10

11                           **ALFRED C. WEAVER,**

12 a witness, called by the plaintiff, having been previously  
13 duly sworn, testified as follows:

14                           DIRECT EXAMINATION

15 BY MR. ROBERTSON: (resuming)

16 Q     Good morning, Dr. Weaver.

17 A     Good morning, Mr. Robertson.

18 Q     I'd like to start out looking at Plaintiff's Exhibit  
19 Number 219, if I could, sir, in binder number five. Before we  
20 get there, I have a few preliminary questions.

21           Do you know whether or not Lawson provides services to its  
22 customers to assist them in importing vendor catalog data into  
23 its item master?

24 A     Yes, I do. There was witness testimony to that from the  
25 customers.

1 Q And did you see any testimony from Lawson personnel that  
2 they provide those services?

3 A Yes, I did.

4 Q Are you familiar with the nature of those implementation  
5 projects that Lawson conducts on behalf of the customers?

6 A Yes.

7 Q Can you tell the jury what they are?

8 A So the Lawson system is quite complex. So this is not a  
9 case of going to Best Buy and getting a shrink-wrapped CD and  
10 putting it in your computer.

11 All of those modules that we talked about need to have  
12 data loaded. They need to be customized for the needs of the  
13 individual customer. So the Lawson witnesses, the corporate  
14 witnesses and the Lawson customer witnesses, explained that it  
15 was very common for Lawson personnel to be on their site for  
16 months, sometimes more than a year, in order to get their  
17 system brought up, to get data loaded, to get it tested, and to  
18 make it operational.

19 Q So they test the system?

20 A Yes, they do.

21 Q Do they train the customer's personnel how to use the  
22 systems?

23 A Yes, and we saw some of the training material yesterday.

24 Q Do Lawson employees assist the customers in bringing the  
25 system live?

1 A Absolutely.

2 Q So back to this Exhibit Number 219 which is a Lawson  
3 response to an RFP, if you could take a look at the page that  
4 has the barcode 120 which, I believe, will have the Bates label  
5 ending 954.

6 A Yes.

7 Q And at the top of this document, it says, detailed steps  
8 to complete data conversion by proposed data module. Do you  
9 see that?

10 A I do.

11 Q Can you tell the jury what your understanding is of data  
12 conversion in the context of this document?

13 A Sure. Data conversion means that you are trying to move  
14 data from some older system, some legacy system the customers  
15 owns, and gets that data reformatted into what is appropriate  
16 for the Lawson system. So data conversion is a reformatting  
17 issue.

18 THE COURT: Reformatting of the customer's data?

19 THE WITNESS: Of the data -- of the customer's data  
20 in a legacy system.

21 Q Can you explain to the jury what a legacy system is?

22 A Sure.

23 THE COURT: I don't know that we need to get into  
24 that explanation. Just say to a customer's system that the  
25 customers has.

1 Q Would that be a type of procurement system the customer  
2 had, and now they're upgrading or moving over to a Lawson  
3 system?

4 A Yes, sir.

5 Q On this exhibit at page 120, tell us who is responsible  
6 for the data conversion.

7 A Well, there is a table here that lists various conversion  
8 tasks. That's in the first column. In the third column, it  
9 says who is the owner of the task; in other words, who is  
10 responsible for that particular task.

11 Q Can you just go through and identify for us those tasks  
12 that Lawson is responsible and those tasks that Lawson as well  
13 as, in this case, the school district is responsible?

14 A Sure. So just moving from top to bottom, the first one,  
15 provide conversion workbooks, that's owned by Lawson. Conduct  
16 a one-day mapping session for each conversion program, that is  
17 a Lawson task. Document all conversion programs required,  
18 that's a Lawson task.

19 And skipping down a bit, code program logic to map data  
20 from legacy or non-Lawson system to Lawson API file layout  
21 formats, that is a shared responsibility between Lawson and the  
22 district. Create detailed program specifications, develop  
23 prototype, unit tests, and document customizations, that is a  
24 shared task between Lawson and the school district.

25 Load small sample of converted data, that is a Lawson and

1 district task, and then skipping down two more, complete data  
2 mapping is Lawson and the district. Develop final data extract  
3 and mapping programs, that's Lawson and the district, and load  
4 converted data for system task is a shared task between Lawson  
5 and the district.

6 Q And turning over to the next page.

7 A Yes. At the top of the next page, final conversion of  
8 live data is Lawson and district.

9 Q Underneath that, there's a list of conversions included  
10 within the scope of this project. Do you see that?

11 A I do.

12 Q What, if anything, would you like to direct the attention  
13 of the jury to within this conversion scope?

14 A So in the middle of this document, here is item master,  
15 and so the title of that column is the conversion file, and so  
16 the item master has to be -- has to convert the data to the  
17 proper format for the item master. And over to the right, for  
18 the conversion recommendations, it says, all active items.

19 So all active items in the legacy or the non-Lawson system  
20 have to be converted, that is reformatted, into the proper  
21 format for the Lawson system.

22 Q Also this purchase order vendor master?

23 A Yes. I was going to say that just below here is the  
24 purchase order vendor master, and to the right of that, all of  
25 the active PO vendors. So that file needs conversion as well.

1 Q If you'll turn in the same volume you have there, Dr.  
2 Weaver, to Plaintiff's Exhibit Number 216?

3 THE COURT: Before you do that, if the customer has,  
4 say, catalogs in its system, is that then converted into the  
5 Lawson system, too?

6 THE WITNESS: Well, the data in the catalog could be  
7 converted, yes, sir. Well, the answer to your question is yes.  
8 The catalogs that are in the non-Lawson system, their data gets  
9 converted so the same data is now in the proper format for the  
10 Lawson system.

11 THE COURT: Who decides what needs to be taken from  
12 the old system and put into the -- converted to the Lawson  
13 system; Lawson or the customer?

14 THE WITNESS: Well, it's probably a joint decision.  
15 The customer would decide what catalog data needs to be  
16 converted --

17 THE COURT: No, I'm beyond just catalogs. I mean  
18 anything. Of all the conversions, who makes the decisions  
19 about what has to be converted for the Lawson system to work?  
20 I didn't ask that question right, so try that one.

21 THE WITNESS: That would have to be a joint decision,  
22 because the customers would know what catalogs it needs, and  
23 Lawson would know what data needs to be converted to make that  
24 happen.

25 Q Does the data sometimes need to be reformulated when it's

1 converted from an older procurement system to the Lawson  
2 system?

3 A Yes. That's what the reformatting does.

4 Q If the customer wants the same catalog data from its older  
5 system put into the new Lawson system it's acquiring, it has to  
6 tell Lawson what catalog data it wants migrated over to the new  
7 Lawson system; is that correct?

8 A That's correct.

9 Q In the course of your review of the testimony and the  
10 documents, is that a fairly common practice?

11 A Yes, it is.

12 Q So we were at Plaintiff's Exhibit 216, and specifically  
13 let's go to page seven, if we could. And there's a heading  
14 there called proposed application landscape?

15 A Yes.

16 Q And going down to the last sentence under that paragraph,  
17 it says, the following applications will be implemented upon  
18 completion of both phases of the project are completed. The  
19 breakout of the application roll-out by phase is described in  
20 section 4.1. Do you see that?

21 A I do.

22 Q Can we go over to the next page, and there's a box  
23 entitled business management system; do you see that?

24 A I do.

25 Q Then there's a heading called Lawson procurement suite.

1 Tell us what your understanding is going on with respect to the  
2 scope of the project here that's being implemented?

3 A Okay, so this is the list of -- this is the list of  
4 modules in the Lawson procurement suite that are going to have  
5 to be used, so that in this list, there's requisitions,  
6 purchase order, inventory control, requisition self-service,  
7 and procurement Punchout.

8 Q Are those the modules we were discussing yesterday, sir?

9 A Very same.

10 Q Should have gone back to the cover page of Plaintiff's  
11 Exhibit Number 216, and this is identified as a Lawson  
12 professional services statement of work. Do you see that?

13 A I do.

14 Q I think you touched upon that a little bit yesterday, but  
15 can you refresh us on what a statement of work is?

16 A So after a company like Jackson Health System writes an  
17 RFP and gets a response and decides to award a contract, the  
18 statement of work is the specific items of work that are going  
19 to be accomplished as a part of the contract. So it's the  
20 agreement on what work will be done.

21 Q Why don't we turn to page Bates label 374 of this document  
22 which is page 15. What does it indicate here under section  
23 3.5, data migration and conversions?

24 A So this is going to describe what scope of work is  
25 involved, and that is what, by contract, is going to be done in

1 order to convert data from an old system to the new Lawson  
2 system.

3 Q Now, sir, if you'll turn the page here, there's a table  
4 that has responsibilities for master file and configuration  
5 table value builds, and there are headings for activity,  
6 responsible, key assumptions, and descriptions.

7 Focusing right now on activities and responsibilities,  
8 what significance would you like to identify in this particular  
9 exhibit?

10 A So in those first two columns, the data migration workshop  
11 is a Lawson responsibility. The migration of strategy and  
12 process description is the responsibility of Lawson. Down  
13 toward the bottom, training and data migration tools is a  
14 Lawson responsibility. Test load and sample data is a Lawson  
15 responsibility, and there's more on the next page.

16 Q Let's go to the next page then.

17 A Okay. So on this next page, production data load is a  
18 Lawson responsibility. Full migration systems test is a Lawson  
19 responsibility. Full migration full scale test is a Lawson  
20 responsibility, and the live migration is a Lawson  
21 responsibility.

22 Q It does indicate here there are some tasks that are  
23 customer responsibilities; is that right?

24 A Yes, it does.

25 Q Does Lawson provide instructions to the customers for how

1 to perform those tasks?

2 A Yes, it does. We saw manuals yesterday.

3 Q Below the table we were just reading from, there's another  
4 table called master file and configuration table value builds  
5 in scope.

6 A Yes.

7 Q What, if anything, of significance should we be focused on  
8 here?

9 A So we have the vendor master file that is going to have to  
10 be configured. We've got the item master file below that that  
11 needs all active information to be converted, and below that  
12 vendor catalog.

13 And we have this note over here from Lawson that the  
14 catalog information is part of Lawson's item master. It would  
15 be converted as a part of conversion item number two above.

16 Q Why did you find that significant?

17 A Well, because this says that the catalog information that  
18 the customer already has has to be converted, reformatted in  
19 order to fit the parameters of the Lawson procurement system  
20 modules, in this case for the vendor catalog module.

21 THE COURT: Does that mean, are you saying that the  
22 customer's catalog data somehow gets into the Lawson item  
23 master?

24 THE WITNESS: Yes, sir.

25 THE COURT: It's put into there by Lawson; is that

1 what you are saying?

2 THE WITNESS: Well, it's put in there through  
3 programs, and the programs can be run by the customer. They  
4 are more likely, since they are complex, to be assisted by  
5 Lawson personnel or run by Lawson personnel.

6 THE COURT: The way that reads suggests to me that  
7 the item master is converted into -- am I reading it right? It  
8 said "it," and I don't know what the indefinite pronoun it --

9 THE WITNESS: The catalog information is the  
10 antecedent of "it." In other words, you are converting catalog  
11 data into the item master.

12 THE COURT: Right. Whose catalog data is being  
13 converted into the item master?

14 THE WITNESS: The customer's.

15 THE COURT: According to your understanding.

16 THE WITNESS: Yes, sir.

17 Q Dr. Weaver, I'd like you to look at Plaintiff's Exhibit  
18 Number 276 which is another statement of work that Lawson  
19 provided. I'm sorry, it's in volume six.

20 A Yes, sir.

21 Q And is this one of the statement of works you reviewed?

22 A It is.

23 Q Can you take a look at page four of the document which is  
24 Bates labeled 087, and I'd like to focus on section 3.1, the  
25 proposed application landscape?

1 A All right.

2 Q And then it goes over on the next page, materials  
3 management. Can you identify for us what you found relevant to  
4 your opinions with respect to this statement of work that  
5 Lawson was performing for, in this instance, Deaconess Health  
6 System?

7 A So this statement of work says that the standard Lawson  
8 software applications included within the scope of this project  
9 are as follows: Requisitions, requisition self-service,  
10 purchasing, EDI standard, and setup of four transactions with  
11 one trading partner, and then it lists the EDI numbers. And  
12 inventory control, one item master, up to five inventory  
13 locations.

14 Q These requisitions, requisition self-service, purchasing,  
15 inventory control, and EDI, those are the modules you were  
16 referring yesterday that build an infringing system?

17 A Yes, that's right.

18 Q What does Lawson say -- I'm sorry. You probably already  
19 answered that question. As to the EDI, it's going to be four  
20 transactions with one trading partner; is that right?

21 A That's right. I think we said yesterday that the 850 is  
22 the purchase order transaction. The 855 is the purchase order  
23 acknowledgment. The 832 is the catalog transmission, and the  
24 810 is not relevant to us, but that's the electronic invoice.

25 Q If you'll turn to the next page of Exhibit Number 276.

1 Discussed here in the middle of the page is this data migration  
2 and conversion scope; do you see that?

3 A I do.

4 Q What significance here would you like to point out to the  
5 jury?

6 A Lawson says that the conversions identified below are  
7 within -- it's below this, Mike -- only the conversions  
8 identified below are within the scope of the project, and the  
9 conversions they are talking about are the vendor master and  
10 the item master.

11 Q And there's a complexity assumption; do you see that?

12 A I do.

13 Q What is the assumption there?

14 A Medium.

15 Q What does it say with respect to what a medium assumption  
16 is for the complexity of doing this data migration and  
17 conversion scope? How do they describe medium?

18 A So medium complexity means that one-to-many or many-to-one  
19 relationship between legacy system and Lawson tables. Some  
20 complexities exist with respect to field mapping and data  
21 translation. Standard Lawson records are available to  
22 facilitate the data import or minimal custom programming is  
23 required.

24 Q Again, down below that description, there's an activity  
25 chart that goes over on to the next page. Do you see that?

1 A I do.

2 Q Let's turn to the next page. These are, again, activities  
3 and responsibilities for particular tasks that need to be  
4 accomplished in order to perform this statement of work for the  
5 Deaconess Health System; is that right?

6 A That's right.

7 Q What, of significance, would you like to point out here?

8 A So at the top, data migration workshops are a Lawson  
9 responsibility, and the description over on the right says that  
10 the workshops will define the data migration process and the  
11 mapping required.

12 And then two down from that, the task or the activity is  
13 transform data. That's a Lawson responsibility, and a  
14 description is that the legacy data is transformed into the new  
15 database structure. And there at the bottom of the page is  
16 live migration. That's a Lawson task, and the description is  
17 live data migration.

18 So that's taking the real production data in the  
19 non-Lawson system and legacy system and moving that into the  
20 Lawson system to make a production system, one that's up and  
21 running.

22 Q So when you say production system, you've now taken the  
23 old data, including catalog data, migrated over to the new item  
24 master in the Lawson system, and then assisted the customer in  
25 getting that up and functional?

1 A Yes, to make it fully operational.

2 Q Can we go to page ten of the document. Again, there's a  
3 number of what are called interface activities; do you see that  
4 on the chart blow there?

5 A Yes, I do.

6 Q What, if anything, does this have for significance for  
7 your opinions?

8 A So these are the activities that are going to be necessary  
9 to integrate the system. By integrate, we mean integrate the  
10 procurement suite with the financial and accounting information  
11 or with the financial and accounting software that's part of  
12 the Lawson system.

13 So focusing on the activities that are of relevance to us,  
14 in the fourth line we have, technical design doc,  
15 documentation. That's the responsibility of Lawson. Two below  
16 that, the activity is develop, and the description or -- excuse  
17 me -- yeah, it is the description over on the right-hand  
18 column. Lawson will develop the interfaces defined in the  
19 scope. Blow that unit test, and below that deliver. Both the  
20 unit test and deliver are Lawson responsibilities.

21 Q Doctor, that's all I have with respect to that document.  
22 So I'd like to talk to you briefly about this procurement  
23 Punchout application and who performs the installation and  
24 implementation of that module. Are you familiar with that,  
25 sir?

1 A I am.

2 Q I want to direct you to binder one. So my first question  
3 is, who typically performs that installation and implementation  
4 of a system that utilizes the procurement Punchout?

5 A That would be Lawson.

6 Q Did you review any Lawson testimony with respect to that?

7 A Yes, I did. The Lawson witnesses said that it was very  
8 common for the Lawson personnel to implement the procurement  
9 Punchout system.

10 Q Have you reviewed any documents that would confirm that?

11 A Yes, I have.

12 Q Why don't you take a look at Plaintiff's Exhibit  
13 Number 103. Have you seen this document before?

14 A Yes, I have.

15 Q And what is it?

16 A So this is a list of frequently asked questions -- that's  
17 the FAQ -- with regard to procurement Punchout, and this was  
18 written by a Lawson employee.

19 Q And can you turn to page -- let me -- prefatory question.  
20 So a Lawson employee is putting together a document that  
21 proposes frequently asked questions during this procurement  
22 Punchout functionality you described?

23 A The idea here is Lawson knows what questions are  
24 frequently asked, so they prepare a list of questions and  
25 answers so that they can easily disseminate answers to

1 frequently asked questions.

2 Q Why don't you turn to page six of this document. So the  
3 questions that are being formed here are by Lawson that they  
4 feel are typical or that are frequently asked by their  
5 customers?

6 A That's right.

7 Q What is the question Lawson identifies is frequently asked  
8 at the top of page six?

9 A The top question is, who typically performs the  
10 installation, and the answer is Lawson Professional Services.

11 Q Thank you, sir. That's all I have with respect to that  
12 document.

13 Doctor, you had another demonstration that you wanted to  
14 show, and in this demonstration, is this the demonstration in  
15 which we were able to, with the assistance of a Lawson  
16 employee, load additional item data to be able to show fuller,  
17 more robust functionality?

18 A Yes, it is.

19 Q This is Plaintiff's Exhibit Number 380, and the hard copy  
20 screen shots would be Plaintiff's Exhibit Number 379. So would  
21 you please explain to the jury what's going on in this capture  
22 of a process operating on the Lawson demonstration system?

23 A Sure. We'll just play this, and I'll narrate it as we go.

24 Q If you need to stop at any appropriate point, fine. If  
25 you want to skip over some of the things that are not at issue

1 in the case, like the approval process or work process flow,  
2 that's fine.

3 A Okay. All right, Mike, let's begin. We launch the  
4 browser and go to the portal. We've seen the login before.  
5 We're at the home page, and we'll go to requisition  
6 self-service and choose shopping. Find/shop tab, and from that  
7 drop-down menu we choose the categories. You saw these  
8 high-level segment categories before.

9 Stop. This time, you will notice there are more of them,  
10 and that's because additional data was loaded in this version  
11 of the demonstration.

12 Okay, in the middle of that list is lighting and  
13 electrical accessories and supplies, so I'll scroll down the  
14 list and go back and choose that high level segment category.  
15 Continue.

16 So here's our second level, lamps and light bulbs; our  
17 third level, lamps; and our fourth level, which is the  
18 commodity, that is halogen lamps. So stop. So now we have a  
19 list of all the items in the database that are halogen lamps.  
20 Continue.

21 We scroll through the list, choose one, and this is a  
22 lamp -- stop. This is a lamp. So that we can remember what it  
23 is, it's a 120-watt halogen lamp, and it's available from the  
24 vendor ^ Granger. Continue. Add that to my shopping cart. Go  
25 back. Scroll through the list, choose another lamp, drill down

1 on that, stop.

2 And so that we can tell the difference, this one is a  
3 150-watt lamp. So I've done some comparison shopping here. I  
4 have searched by categories. I found a number of lamps which  
5 are generally equivalent. I chose one, a 120-watt one, and now  
6 I change my mind, and I'm going to choose the 150-watt lamp.

7 Notice that this is available from a different vendor.  
8 This one is from ^ Gexpro. Continue. So I add it to my  
9 shopping cart. There it is at the top, and I delete the  
10 120-watt lamp at the bottom of the shopping cart.

11 So I'll go back to the drop-down menu, and now I'll do  
12 Punchout. I'll punch out to Dell.

13 Q Let me just stop you there. You went to an internal  
14 catalog database?

15 A The first halogen lamps that we saw were all in the  
16 internal database.

17 Q And now you're going to an external catalog database?

18 A This is the external catalog at the special Dell site.

19 Q So the Lawson system has the ability to both search the  
20 internal catalog database and add items to a requisition, and  
21 then it can also, in the same process, punch out and go to an  
22 external catalog database in order to search a catalog and  
23 retrieve items?

24 A That's right.

25 Q Is that what you are illustrating?

1 A That's what we're illustrating here. Okay, so continue.  
2 So we punch out to Dell, go full screen and shop by brand. So  
3 at the Dell site, we'll see a list of brands, of products that  
4 they carry, and it's a long list.

5 We'll just quickly scroll through some of it, and we'll  
6 shop by Kensington brand. So here are some Kensington  
7 products. I'll look for carrying cases. So I want a case for  
8 my laptop. I'll scroll through these, look at a second page,  
9 choose this one, a counterbalance laptop roller. Stop.

10 Q Let me ask you this, Dr. Weaver, while you stopped: Are  
11 we actually at the Dell commercially available website?

12 A No. This is the special Dell site that's been created for  
13 this customer.

14 THE COURT: Dell or Kensington?

15 THE WITNESS: Dell is the site, and Kensington is the  
16 brand of carrying case that Dell is selling.

17 THE COURT: Dell sells Dell and others including  
18 Kensington, and they are on this site.

19 THE WITNESS: Dell sells, of course, many items and  
20 many brands, but they are all on the Dell site, yes.

21 Q How do we know that this is the Dell site? I see it also  
22 has the Lawson logo at the top. What are we seeing here that  
23 tells us we're not at the Dell commercially available site but  
24 rather some site that Lawson is making available to the  
25 customer?

1 A When we look at that URL, universal resource locator web  
2 address at the top, we start at the  
3 lsfsfserver.corpnet.lawson.com.

4 Q LSF, does that stand for Lawson System Foundation server?

5 A Yes, it does.

6 Q That's the foundational software that's necessary to have  
7 this S3 procurement software run on top of?

8 A Right. That was the bottom yellow block in my  
9 demonstrative. Then as we look to the right of that, we see  
10 we're being redirected to this special website which is  
11 signin.dell.com/dellogin/port. I'm sorry, that was portal,  
12 /login.ASPX. So this is running software that loads this Dell  
13 site.

14 So we have now gone to the Kensington counterbalance  
15 laptop roller, but in looking at the catalog description, it  
16 says, temporarily out of stock, please check back soon. So I  
17 need my cases sooner than that, so I'm going to get a different  
18 laptop case. So, continue.

19 So I'll go up to rollers. So in the special Dell site,  
20 I'm looking at roller cases. Here is one from Case Logic, so I  
21 drill down on that. Stop. So now I have the description, I  
22 have the manufacturer part number, I have the Dell part number,  
23 I have the UNSPSC code that I used, and now that I look at the  
24 information on availability, it says usually ships within  
25 24 hours. So this case is available in inventory as opposed to

1 the previous one that was not. So this case is satisfactory,  
2 so I'll choose this one. So continue.

3 I'll add it to my Dell shopping cart. So here's that  
4 description. I'll change the quantity to three. I'll create  
5 the order, and I'll do the trade compliance. Continue. So  
6 here we have the verify and submit. So there is my case,  
7 quantity three. That's all right, so I'll submit the order.

8 Stop. So now that I've submitted that order, I have  
9 checked out of the Dell site, and here in my Lawson shopping  
10 cart I have three roller cases and one incandescent halogen  
11 lamp. Continue. So I'm going to check out. I guess I'm going  
12 to look at the lamp again. Okay.

13 So here is the detail on the lamp, and -- stop. If you  
14 will recall, this one came from Gexpro. Continue, and I'll  
15 look at the detail on the laptop cases. So there's my rolling  
16 laptop case, and this comes from the Punchout site, from Dell  
17 computer.

18 All right. So I'm satisfied with this, so I check out,  
19 and now this is saving the Lawson shopping cart into temporary  
20 storage where I can turn it into a requisition and then into a  
21 purchase order. So back to the portal. You've seen the  
22 approval before. I find my requisition number 940. There's my  
23 halogen lamp and my three roller cases, so I approve that.  
24 Then I'll run that PO 100 program.

25 I give it a job description, I fill in this required

1 information. Don't need the filters. Now we'll submit this  
2 job. The job name RQ 940 is running. I go to the print  
3 manager, I get the requisition -- the purchase order and --  
4 stop.

5 Here at the top of the purchase order we have the  
6 information on the buyer, Metropolis Medical Center. Continue.

7 Stop. So here is our roller laptop case, quantity three  
8 coming from Dell Computer, purchase order released. Continue.

9 Stop. And so here then is our second item, the incandescent  
10 halogen lamp. It's coming from Gexpro, quantity one, PO  
11 released, and the report is complete, two purchase orders  
12 created. That's the end.

13 Q Doctor, in this process in which you searched among  
14 product catalogs and an internal catalog database, and you went  
15 to an external catalog database at the Lawson Punchout partner  
16 Dell, at any time, have you left the Lawson system while doing  
17 that?

18 A Never.

19 Q Now, Doctor, you talked a little bit about the UNSPSC  
20 classification coding yesterday for finding items of general  
21 equivalents that could be substituted for each other; you are  
22 familiar with that?

23 A Yes.

24 Q I don't want to go through the whole segment and family  
25 and class and commodity code again, but I do want to ask you --

1 you may have touched on this yesterday, but is there a module  
2 that Lawson provides that permits you to -- a program that  
3 permits you to automatically upload that UNSPSC classification  
4 schema?

5 A Yes, there is.

6 Q What inventory module -- excuse me. What module does that  
7 come with?

8 A Inventory control.

9 Q Is that one of the core modules that you have to have in  
10 order to do this procurement process?

11 A Right. It's one of the three in my blue box.

12 Q Does Lawson tell the customers where it can obtain these  
13 codes?

14 A Yes. It tells you the website to go to.

15 Q And does Lawson have a program in that inventory control  
16 where you can automatically download those?

17 A Yes, it does.

18 Q I'd like you -- well, let me ask you this: Have you  
19 reviewed documents explaining how these UNSPSC codes work in  
20 the procurement process?

21 A I certainly have.

22 Q Could I ask you to go to Plaintiff's Exhibit Number 11  
23 which is in volume one? Now, at the top of this, there's an  
24 organization called Grenada Research; do you see that?

25 A I do.

1 Q Is that associated with Lawson in any way?

2 A No.

3 Q So this is some independent third party who is going to  
4 tells us about using UNSPSC coding?

5 A That's right.

6 Q It's called a white paper. What's a white paper, if you  
7 know?

8 A A white paper is a statement of position, so it's what you  
9 know or what you think about a subject. It's intended to  
10 educate.

11 Q Underneath there, there's a -- what does it say as to  
12 these UNSPSC codes?

13 A So the white -- the topic of the white paper is why coding  
14 and classifying products is critical to success in electronic  
15 commerce.

16 Q Can you go to page five of this exhibit. There's a  
17 heading right in the middle called, for finding and purchasing;  
18 do you see that?

19 A I do.

20 Q There's a table that says, classifying products and  
21 services supports procurement activities; do you see that?

22 A I do.

23 Q Do you agree with that statement?

24 A Yes.

25 Q And there is a pros and cons. Do you see that?

1 A I do.

2 Q What is one of the pros that Grenada Research identifies  
3 here?

4 A So the first one, enables buyers and employee  
5 requisitioners to find all suppliers of a given category.

6 Q Is there a con?

7 A Yes. Requires up-front effort to apply codes, can be done  
8 by third party.

9 Q And have you seen -- is this the Lawson that says its  
10 customers will provides that service?

11 A Yes.

12 Q Underneath that table, there is a heading called product  
13 discovery?

14 A Yes.

15 Q What, if any, significance does this have to your opinions  
16 with respect to how the UNSPSC assists buyers and  
17 requisitioners to find suppliers in a given category?

18 A The first two sentences are relevant. A common naming  
19 conventional allows computer systems to automatically list  
20 similar products under a single category. When a person is  
21 searching for the category, he or she finds precisely the  
22 things being discovered and nothing else.

23 Q Can you turn to page ten of the document which ends with a  
24 Bates label 041. And there's a heading called unique item  
25 codes for schema modifications and multi-language uses.

1 A Yes.

2 Q And at the end, I don't want to have to go through this  
3 entire paragraph -- the jury is going to have this in the jury  
4 room -- but what, of significance, in that paragraph would you  
5 like to point out?

6 A In the fourth paragraph, it's the last sentence which  
7 says, in effect, unique numbers allow cross-referencing to  
8 assure consistency.

9 Q Is cross-referencing relevant in this case?

10 A Yes. That's a term in the patent.

11 Q Is it a term that the Court's described in its glossary of  
12 terms?

13 A Yes, it is.

14 Q Why don't you go to that if you could for a second. Cross  
15 reference table, do you see the Court defined that?

16 A It's the third one down.

17 Q It says, the Court's construction is a table that links  
18 vendor items determined to be equivalent between two or more  
19 different vendors. Do you see that?

20 A I do.

21 Q Does this UNSPSC hierarchical schema permit the  
22 cross-referencing capability the Judge has defined there?

23 A Yes, it does.

24 Q Turn to page 13 of the document for now, and just I want  
25 to focus on that hierarchy. Is this -- this has the segment,

1 the family, the class, and the commodity for office equipment  
2 going down to pen refills. Is this the same kind of example  
3 you gave yesterday with how, in effect, this eight-digit coding  
4 can drill down to get you to a specific product that you want?

5 A Yes, it is. The example we used yesterday went down to  
6 black pens. This was a different class, so it ends up with a  
7 different commodity, but it's the same schema.

8 Q Why don't you go, then, to page 12 on this exhibit, and if  
9 we could, just the chart. So, again, this is describing the  
10 levels of the UNSPSC -- actually, this even has one additional  
11 level down there. Do you see this business function?

12 A Yes.

13 Q What does it say by the time you get down to the commodity  
14 level, that last level? What does it say with regard to what  
15 you can now do with this tool in order to identify product or  
16 service? How does it characterize it?

17 A What it says, by the time you've gotten down to the  
18 commodity level, you have found a group of substitutable  
19 products or services, and we just saw that with the halogen  
20 lamps.

21 Q Doctor, your opinion, if the parts are substitutable,  
22 would they be similar or generally equivalent?

23 A Yes, they would.

24 Q Thank you, Doctor. That is all I have with respect to  
25 that document.

1 THE COURT: Is that 111 or 11?

2 MR. ROBERTSON: 11, sir. I may have misspoken.

3 THE COURT: No, I didn't write it down.

4 Q Doctor, I'd like to talk to you a little bit now about  
5 what's known as indirect infringement. You are familiar with  
6 that concept?

7 A Yes.

8 Q You understand that ePlus is also accusing Lawson of  
9 inducing infringement of the patent claims in this case by  
10 encouraging, aiding, abetting, or assisting its customers to  
11 directly infringe the method claims at issue in this case?

12 A Yes, I understand that.

13 Q What evidence have you reviewed with respect to whether or  
14 not Lawson does, in fact, encourage, assist, urge, aid, or abet  
15 its customers to use the Lawson systems in a manner that are  
16 covered by ePlus's claims?

17 A Well, we saw yesterday that there were training courses  
18 that were being offered. We looked at one which was the notes  
19 for a training session, but there are live training sessions,  
20 there are archived on-line training sessions that you can play  
21 back. There are live training sessions that are using an  
22 interactive tool so that you can watch a training session and  
23 participate in it.

24 We know from testimony of both the Lawson witnesses and  
25 their customers that Lawson provides consulting services to

1 help with things like the data migration that we talked about  
2 moments ago. Lawson maintains a help website where customers  
3 can go to find documents or to get answers to frequently asked  
4 questions.

5 We know that Lawson has partnerships with some companies  
6 that provide multiple vendor catalogs. One of those is the  
7 Global Health Exchange. So this helps their customers find  
8 more items that they might want to purchase, and then as you've  
9 seen already, there's voluminous documentation that Lawson  
10 provided to its customers about how to use its software  
11 products.

12 Q Will they install, build, configure, maintain, and service  
13 those systems?

14 A They will.

15 Q Does Lawson provide on-demand online courses?

16 A Yes, they do.

17 Q Will they perform product simulation training for you?

18 A Yes, they will.

19 Q Do they have interactive webcast training?

20 A Yes, they do.

21 Q Do they provide virtual labs where students can interact  
22 with a simulation system?

23 A Yes, they do.

24 Q Do they offer courses in how to do the electronic  
25 procurement?

Weaver - Direct

774

1 A They do.

2 Q Do they provide manuals and guides to the customers to  
3 train them how to set up the S3 item master and add item data?

4 A Yes.

5 Q Do we see something about, or are you familiar with  
6 courses explaining how to import vendor agreements?

7 A Yes, we saw that.

8 Q Do they have a website you can go to if you have any  
9 questions?

10 A Yes, a help website.

11 Q Do they provide answers to frequently asked questions of  
12 their customers?

13 A They do. We saw one.

14 Q Are you aware of any kind of technical support tools that  
15 Lawson provides to its customers?

16 A Yes.

17 Q Are you familiar with a case management and problem  
18 management tool?

19 A Yes.

20 Q What kind of technical support do they provide, if you're  
21 aware?

22 A If the customer wants them to assist with creating a new  
23 system, which most customers do, we saw that in the frequently  
24 answered questions, then Lawson support personnel will go to  
25 the customer site and help them convert from an old system to a

1 new system or just install a new system.

2 So they'll do whatever the customer needs to get a new  
3 system up and running. And Lawson will even host the entire  
4 system for the customer, that is provide the hardware and  
5 software and then train the customers about how to use the  
6 Lawson system even if it's running at the Lawson site.

7 Q So when you say host the system, that is the customer  
8 doesn't have to actually have the software implemented on its  
9 computer servers; Lawson will have it loaded there, and the  
10 customer can go to the Lawson system and use it?

11 A That's right. Yeah. The customer doesn't have to  
12 actually have any of the hardware or software. All of that can  
13 be run from Lawson-owned and managed and maintained computers.

14 Q So when Lawson is hosting that software, is it performing  
15 the method claims that are at issue?

16 A Yes, it is.

17 Q Doctor, when Lawson sells a system that has those core  
18 procurement modules you identified, inventory control,  
19 requisitions, and purchase order, and the prerequisite modules  
20 you identified being the Lawson System Foundation and process  
21 flow -- can you put up those two -- yellow and blue box, and  
22 there are at least two vendor catalogs either loaded, or  
23 through the Punchout system available in the databases, does  
24 that system have any substantial non-infringing use?

25 A No. The suite is intended for one purpose, and that's to

1 do the kind of procurement that we've been discussing now for  
2 more than a day.

3 Q And then when Lawson sells a system that has each of these  
4 foundation and these three core modules that make up an  
5 infringing system, plus the requisition self-service  
6 application on top of that which makes it more user-friendly as  
7 I think you identified --

8 A Right.

9 Q -- and there are loaded at least two vendor catalogs,  
10 either external or combined with an internal -- let me rephrase  
11 that. Let me start over.

12 When you have this requisition self-service loaded on top  
13 of these core modules to make it more user-friendly, and when  
14 you have available to you either at least two internal catalogs  
15 or an internal catalog and at least one external catalog that  
16 can be accessed, does that system have any substantial  
17 non-infringing use?

18 A No.

19 Q We have those three core procurement modules, the  
20 requisition self-service and the Punchout procurement  
21 application, and available to us at least two product catalogs,  
22 does that system have any substantial non-infringing use?

23 A No.

24 Q If you would just again for me, I'd like to just confirm  
25 the three different scenarios that you have given opinions on

1 with respect to what forms an infringing system.

2 A All right.

3 Q Maybe you want to identify them by circling or whatever on  
4 the touch screen.

5 A Okay.

6 Q So --

7 A Waiting on me, okay.

8 Q What is the first core infringing system?

9 A That was this one, the three, S3 procurement modules,  
10 purchase order requisitions, and inventory control running on  
11 top of the Lawson system foundation and process flow. The  
12 second one was to add requisition self-service.

13 So that was the user-friendly overlay on top of the  
14 requisition module itself, and the third one here was  
15 procurement Punchout. Your Honor, I see what you mean about  
16 the Ps. The.

17 THE COURT: Not all of them, though. I'm sorry, but  
18 I have asked to see if they can do something about it, but I  
19 think it will only help the next case, not us. It's nothing  
20 you're doing wrong. Just one of those things that happens.

21 THE WITNESS: That's curious. So the third one is to  
22 add the procurement Punchout which is how you get access to  
23 those external sites like Dell and Staples.

24 Q When I add the electronic interchange on top of that, is  
25 that still an infringing configuration?

1 A It is, because even if we have just this much, we have the  
2 requisitions module that can talk to EDI to do the purchase  
3 orders and to get the purchase order acknowledgements.

4 Q Just so we're clear, can you remove the Punchout? Now,  
5 this is an infringing configuration. Does it become  
6 non-infringing by adding those additional modules?

7 A It does not.

8 Q So, Doctor, I'd like to talk to you now about your  
9 ultimate opinions with respect to infringement in this case.  
10 Are you prepared to do that?

11 A Sure.

12 Q First I'd like to start with claim three of the '683  
13 patent. You are aware, Doctor, and understand that ePlus is  
14 accusing Lawson of directly infringing claim three by making,  
15 using, selling, and offering to sell or importing systems that  
16 directly infringe this claim?

17 A Yes.

18 Q Do you have an opinion as to whether or not Lawson  
19 directly infringes this claim by doing all those things and  
20 offering a system that's capable of including at least two  
21 product catalogs containing data relating to items associated  
22 with their respective sources?

23 A Yes, I believe they do.

24 Q Have we seen examples of multiple product catalogs that  
25 can be imported into a system database or accessed via Punchout

1 and that Lawson software includes various catalog import  
2 utilities?

3 A Yes. We saw that in my most recent demonstration where we  
4 had multiple vendor catalogs for the lamps, and then we did the  
5 Punchout, and we had access to Dell and Staples.

6 Q The first introductory preamble here says that claim three  
7 has to be an electronic sourcing system. Do you see that?

8 A Yes.

9 Q Do you know whether the Judge has construed the term  
10 electronic sourcing system?

11 A Yes.

12 Q What has the Judge indicated an electronic sourcing system  
13 is?

14 A An electronic system for use by a prospective buyer to  
15 locate and find items to purchase from sources, suppliers, or  
16 vendors.

17 Q Do you have an opinion as to whether or not the accused  
18 Lawson system here satisfies that claim element?

19 A It does.

20 Q The next element is at least two product catalogs  
21 containing -- I'm sorry. You probably already did that one.  
22 Did you satisfy -- did Lawson satisfy direct infringement for  
23 this electronic sourcing system, and you said yes.

24 A Yes.

25 Q Does Lawson provide to its customers an electronic

1 sourcing system in your opinion?

2 A Yes.

3 Q And I think you've already answered the question with  
4 respect to that Lawson provides or permits access to and  
5 provides services that provide at least two product catalogs  
6 containing data relating to items associated with their  
7 respective sources; is that right?

8 A That's right --

9 MR. McDONALD: Object to the form of that question,  
10 Your Honor.

11 MR. ROBERTSON: I'll rephrase.

12 Q Does Lawson directly infringe the second claim element?

13 A Yes.

14 Q Satisfies it when -- does it satisfy it?

15 A Yes.

16 Q Okay. And do they assist, aid, abet, or encourage or urge  
17 their customers to do the same?

18 A Sure, when they license these software modules.

19 Q Do you have an opinion as to whether or not Lawson's  
20 systems, the accused systems provide a means for selecting the  
21 product catalogs to search?

22 A They do.

23 Q And what evidence have we seen for that?

24 A We know that there is a user interface that allows the  
25 user to either select one catalog and then serially to select

1 another one. We just saw that in the Punchout. You can also  
2 do that with the internal catalogs, and you can search by  
3 keywords like Dell, or you can search by categories like we did  
4 as we marched through the UNSPSC codes.

5 Q So does Lawson also indirectly infringe that by  
6 encouraging its customers to do the same?

7 A Yes.

8 Q Do you have an opinion as to whether or not Lawson systems  
9 include a means for searching for matching items among the  
10 selected product catalogs?

11 A Yes, they do, and we saw that when I used the search  
12 engine.

13 Q And did they indirectly infringe that claim element by  
14 assisting their customers to do the same?

15 A Yes.

16 Q The search engine you talked about, you also gave some  
17 evidence with respect to the search index; is that right?

18 A That's right.

19 Q We'll come back to that later in the context of some of  
20 the other claims. The search engine, though, just to refresh  
21 the jury was for what purpose?

22 A This is to find the matching items.

23 Q Do you have an opinion as to whether or not Lawson accused  
24 systems include means for building a requisition using data  
25 relating to selected matching items and their associated

1 sources?

2 A They do. We saw that in my, three of my demos and in  
3 their documentation.

4 Q The Court defined matching items as search results. Is  
5 that consistent with your opinion?

6 A Yes, it is.

7 Q Does Lawson encourage its customers to directly infringe  
8 that claim by using the systems?

9 A They do, and we had that list of evidence like training  
10 courses and help sites and Lawson employees going to the  
11 customer site to help them build or maintain their system.

12 Q Do you have an opinion as to whether or not the accused  
13 Lawson systems have a capability of processing the requisition  
14 to generate one or more purchase orders for the selected  
15 matching items?

16 A Yes. We saw that in my demo and in the system  
17 documentation.

18 Q The Judge has defined selected matching items as  
19 requisition items. Is that -- is your opinion consistent with  
20 that?

21 A Yes, it is.

22 Q Does Lawson indirectly infringe -- meet this claim element  
23 by encouraging its customers to do the same by providing them  
24 with these systems?

25 A Yes.

1 Q Do you have an opinion, Doctor, as to whether or not the  
2 accused Lawson systems satisfied the claim element means for  
3 converting data relating to a selected matching item and an  
4 associated source to data relating to an item in a different  
5 source?

6 A Yes, and we saw that when we did the category search using  
7 the UNSPSC codes. And we also know this is made possible by  
8 that IC 516 program that loads UNSPSC codes into the item  
9 master.

10 Q And this capability, is that provided to their customers?

11 A Yes.

12 Q And that is in the core IC module you mentioned?

13 A Yes.

14 Q And were there any demonstrations you put on for the jury  
15 to show how you could use that UNSPSC classification code to  
16 find generally equivalent items?

17 A Yes. We just did that with the halogen lamps.

18 Q So what is your opinion now -- I'm sorry. Did we see any  
19 evidence with respect to whether or not Lawson encourages or  
20 urges its customers to use the Lawson system to perform that  
21 cross-referencing capability or conversion capability?

22 A Yes. We saw that in the training documents.

23 Q The Judge has defined converting data related to a  
24 selected matching item and an associated source to an item in a  
25 different source. Do you see that?

1 A Yes. That's the second one on the glossary.

2 Q Can you read for me what the Judge's definition is?

3 A Substituting data related to a selected matching item and  
4 an associated source to data relating to an item and a  
5 different source.

6 Q And in your opinion, does the Lawson system satisfy the  
7 Judge's definition of that claim element?

8 A It does, and we just saw that with the halogen lamp from  
9 Granger and substituting the halogen lamp from Gexpro.

10 Q So, Doctor, what is your opinion with respect to whether  
11 Lawson infringes claim three both directly and indirectly?

12 A I believe they do.

13 Q Next claim at issue here, which is the claim 26, this is  
14 the method comprising those steps. Again, the direct  
15 infringement here, or the accused direct infringement here for  
16 performing this method step is the customers performing these  
17 steps by using the Lawson system. Do you understand that?

18 A I do.

19 Q And you also mentioned this instance where Lawson may host  
20 a system for customers to use at the Lawson site. Do you see  
21 that?

22 A Yes.

23 Q So I want to go through this relatively quickly in the  
24 sense that these claim elements match up to the system claims  
25 that we just went through with the exception that we have this

1 new element, the last element, determining whether a selected  
2 matching item is available in inventory. So just very quickly,  
3 Doctor, does Lawson --

4 MR. McDONALD: Your Honor, I object to the  
5 characterization since these terms were not construed as means  
6 plus function because they are system claims, so they aren't  
7 similar.

8 MR. ROBERTSON: I'll go through it in a little bit  
9 more deliberate fashion.

10 Q Does the Lawson system permit a customer to perform the  
11 following steps: Maintain at least two product catalogs on the  
12 database containing data relating to items associated with the  
13 respective sources?

14 A Yes.

15 Q Select the product catalogs to search?

16 A Yes.

17 Q Search for matching items among the selected product  
18 catalogs?

19 A Yes.

20 Q For matching items, did you apply the Judge's  
21 construction?

22 A I did.

23 Q For product catalogs, did you apply the Judge's  
24 construction?

25 A I did.

1 Q Does the Lawson system permit or provide the ability to  
2 build a requisition using data related to selected matching  
3 items and their associated sources?

4 A Yes.

5 Q Did we see that?

6 A Yes.

7 Q Did you perform the steps of this method claim when you  
8 did the demonstration?

9 A I did.

10 Q Does the Lawson accused system provide the ability,  
11 capability of processing the requisition to generate one or  
12 more purchase orders for the selected matching items?

13 A Yes, we saw that.

14 Q Does the Lawson system in operation permit, or is it  
15 capable of determining whether a selected matching item is  
16 available in inventory?

17 A Yes. We saw that with the case, with the laptop cases  
18 today, and yesterday we saw it with the desk. I wanted a first  
19 desk but it was back ordered, so I got a second desk that was  
20 available in inventory. And the same with the printer  
21 yesterday. I chose a first printer. It was not available. It  
22 was out of stock, so I got a second printer.

23 Q So, in your demonstrations that you provided for the jury,  
24 you were able to show that the system was capable of doing all  
25 these steps?

1 A I was.

2 Q How can you satisfy -- can you also satisfy this inventory  
3 determination by using the EDI module?

4 A We mentioned yesterday there was this EDI 855 message, the  
5 purchase order acknowledgment, so after the purchase order 850  
6 message goes out, the PO 855, purchase order acknowledgment  
7 comes backs, and it tells whether or not the vendor can fulfill  
8 the order, and it can also contain information like whether the  
9 product that you are trying to order is backordered or out of  
10 stock.

11 Q Do you have an opinion with respect to the activities of  
12 Lawson to encourage assist, aid, abet, and urge its customers  
13 to use the Lawson systems in the manners claimed in claim 26?

14 A Yes.

15 Q So would that constitute indirect infringement of all  
16 these elements?

17 A It would.

18 Q Dr. Weaver, let's take a look at claim 28, if we could.  
19 Now, again, this is a method claim, so we're talking about the  
20 customers and Lawson when it hosts an infringing system, so --  
21 and with respect to this claim, these elements are  
22 substantially identical with respect to claim 26 except the  
23 last step has to do with converting data relating to selected  
24 matching items and associated source to data relating to an  
25 item in a different source. Do you see that?

1 A Yes.

2 Q Whereas claim 26 had to do with this inventory  
3 availability capability; correct?

4 A Correct.

5 Q So with respect to the first five elements, would your  
6 opinion be the same with respect to whether those elements are  
7 being practiced by the customers when they perform these steps  
8 or by Lawson when it hosts the system?

9 A Yes.

10 Q We can check those boxes off. Again, did we see you  
11 actually performing those steps when you did your  
12 demonstrations?

13 A Yes. That was the UNSPSC codes.

14 Q Well, that's the last element --

15 A You are talking about these first five.

16 Q Yes.

17 A I demonstrated all of these.

18 Q So this last element about converting data which we've  
19 already given the jury the Judge's definition of substituting  
20 data related to a selected matching item and the associated  
21 source to data relating to an item in a different source,  
22 applying that definition, does Lawson directly infringe this  
23 claim?

24 A Yes.

25 Q And do the customers perform the steps of this claim when

1 they use the system with that capability?

2 A Yes.

3 Q Go to claim 29. This is a dependent claim; correct,  
4 Doctor?

5 A Yes, it is.

6 Q So this dependent claim has to have all the steps that you  
7 just indicated were present in claim 28 plus the additional  
8 step of determining whether selective matching items available  
9 in inventory; do you see that?

10 A I do.

11 Q What is your opinion with respect to direct infringement  
12 and indirect infringement as to this dependent claim 29?

13 A I believe that Lawson is a direct infringer and an  
14 indirect infringer. We just saw with claim 28 that we went all  
15 the way through the converting process, and in the demo that I  
16 just showed you, we did both the conversion with the UNSPSC  
17 codes, and then we did the determination of whether or not it  
18 was available in inventory when we did the laptop roller cases.

19 Q And by providing this capability to its customers, is  
20 Lawson encouraging aiding, abetting, or assisting them in  
21 performing this step?

22 A Yes.

23 Q Let's go to claim one of the '172, if we can, please.  
24 That's also an electronic sourcing system.

25 THE COURT: That's tab four in your books, ladies and

1 gentlemen.

2 Q Now, this also starts out with a preamble, an electronic  
3 sourcing system comprising; do you see that?

4 A Yes.

5 Q Did you apply the same definition that the Court gave for  
6 that?

7 A I did.

8 Q Both for direct and indirect infringement?

9 A Yes.

10 Q This is a system claim, so this involves the system or the  
11 product we're talking about here; is that right?

12 A That's right.

13 Q By providing a system capable of performing all of the  
14 structures disclosed here, do you have an opinion, first, as to  
15 whether or not Lawson provides a database containing data  
16 relating to items associated with at least two vendors  
17 maintained so that selected portions of the database may be  
18 searched separately?

19 MR. McDONALD: Object to the form of the question,  
20 Your Honor. He said something about capable of performing some  
21 structures or something. I think it's ambiguous as to what  
22 that means.

23 THE COURT: I don't see structures in there.

24 MR. ROBERTSON: I will rephrase the question, Your  
25 Honor.

1 Q Does the Lawson system, as -- is the Lawson system capable  
2 of providing a database containing data relating to items  
3 associated with at least two vendors maintained so that  
4 selected portions of the database may be searched separately?

5 MR. McDONALD: I object to the form of the question,  
6 Your Honor. The element doesn't say capable of. It says a  
7 database.

8 THE COURT: He's objected to the form of the  
9 question.

10 MR. ROBERTSON: The law is, Your Honor, all they have  
11 to do is provide a system that's capable of doing that. So I  
12 think the objection is not well-taken.

13 THE COURT: Anything else?

14 MR. McDONALD: There's a distinction I'm making  
15 between the database versus function. Capable of performing a  
16 function is one thing. Having a database is another.

17 THE COURT: I think they're two different questions.  
18 I think the first question is, does it have a database. If it  
19 doesn't, then you have to say something else. Your objection  
20 is sustained to the form of the question.

21 Q Does the Lawson system have a database containing data  
22 relating to items associated with at least two vendors  
23 maintained so that selected portions of the database maybe  
24 searched separately?

25 A Yes. We saw the database in the item master and the

1 vendor item table, and selecting portions of the database to be  
2 searched separately was done by the search index.

3 Q Have we seen examples where Lawson has implemented  
4 scenarios in which they have provided vendor data for their  
5 customers?

6 A Yes.

7 Q Have we seen examples where they do what you identified as  
8 data migration of the customer's catalog data to the new Lawson  
9 system?

10 A We saw that in the statement of work.

11 Q Is the Lawson system capable of containing data relating  
12 to items associated with at least two vendors maintained so  
13 that selected portions of the database may be searched  
14 separately?

15 A Yes.

16 Q Did Lawson assist, aid, abet, or encourage its customers  
17 to maintain a database that would satisfy the first claim  
18 element?

19 A Yes.

20 Q These next five elements are means-plus-function claim  
21 elements. You are familiar with that?

22 A I am.

23 Q The Court's construed these claim elements. You've  
24 reviewed those constructions; is that right?

25 A Yes.

1 Q Did you apply those -- they are at pages two and three of  
2 the glossary that has been provided to the jurors at tab six.  
3 Having reviewed them, Doctor, I'm going to just ask you whether  
4 or not the Lawson system, as defined by the Court, has a means  
5 for entering product information that at least partially  
6 describes at least one desired item?

7 A It does. It provides a user interface that permits that.

8 Q Does it indirectly infringe by providing that to their  
9 customers?

10 A Yes.

11 Q And assisting them in its operation. Under the Court's  
12 construction as you know it, does the Lawson accused system  
13 have a means for searching for matching items that match the  
14 entered product information and selected portions of the  
15 database?

16 MR. McDONALD: Objection, Your Honor. He said the  
17 Lawson accused system. I think he has already said there are  
18 three or four different Lawson accused systems.

19 THE COURT: So your question is to the form of the  
20 question because the evidence deals with more than one system,  
21 and his question is in the singular.

22 MR. McDONALD: Correct.

23 THE COURT: Isn't that a well-taken objection? In  
24 other words, don't you need to specify which system if you want  
25 to ask about one, or are you asking about all? If you're

1 asking about all, ask about them all. Objection sustained.

2 MR. ROBERTSON: Understood, Your Honor.

3 Q With respect to these questions you've been answering,  
4 would your answer be the same with regard to all four  
5 configurations that you identified that are infringing accused  
6 Lawson systems?

7 A With regard to the checking inventory, we need the  
8 Punchout module.

9 Q Okay. Could you check inventory if you didn't have the  
10 Punchout module but you had the EDI module?

11 A Yes, you could.

12 Q So that is a different configuration?

13 A Yes, it is.

14 Q So with respect to just that one instance of checking  
15 availability, would your answers be the same with respect to  
16 the other configurations?

17 A Yes.

18 MR. McDONALD: Objection to the form of that  
19 question, Your Honor. What answers?

20 THE COURT: Yes. I think I have to agree with that.  
21 I'm not sure what answers are the antecedent reference points.  
22 Sustained.

23 Q Let's go back to claim three.

24 THE COURT: I think it's better to go on and do it  
25 the slow way, Mr. Robertson. I understand what you're doing,

1 and you're doing it because I prompted you to try to expedite  
2 things, but in this instance, I think that it's important the  
3 jury understand each one, so go ahead and do it --

4 MR. ROBERTSON: All right, thank you.

5 THE COURT: -- the old-fashioned way.

6 MR. ROBERTSON: I'll do that Your Honor.

7 Q We're back to claim three, Dr. Weaver --

8 THE COURT: What I meant, ladies and gentlemen, is I  
9 suggested to the lawyers that they move right along, and  
10 they've been trying to do that, and I think in this instance,  
11 them adhering to my instruction to move along resulted in some  
12 short forms that Mr. McDonald objects to, and the objection is  
13 well-taken. So it's not his fault, so he'll start again on  
14 this issue.

15 Q So, Doctor, let's break this down if we can into the four  
16 accused Lawson systems. System one I'll call the core system  
17 which has the blue block -- the yellow block and the blue  
18 block; okay? And system two, let's add the RSS. System three,  
19 let's add Punchout procurement.

20 THE COURT: Now, wait a minute. Is that the core  
21 plus RSS plus the Punchout procurement?

22 MR. ROBERTSON: Yes.

23 THE COURT: Or is it just core plus Punchout?

24 MR. ROBERTSON: No, you need the requisition  
25 self-service. That's why it's sitting on top of that, Your

1 Honor.

2 THE COURT: I just want you to make sure your  
3 question is right. I think I know the answer, but I think the  
4 question needs to be clarified. System three is the core plus  
5 the RSS plus the Punchout.

6 MR. ROBERTSON: Yes, sir.

7 THE COURT: Right?

8 MR. ROBERTSON: Right.

9 THE COURT: And system four?

10 MR. ROBERTSON: We'll call that the plus the  
11 electronic data interchange module.

12 THE COURT: So it's the core, which is the yellow and  
13 the blue, plus the EDI; is that what you are saying, or are you  
14 saying something else?

15 MR. ROBERTSON: Well, that actually -- we should do  
16 the core plus just EDI.

17 THE COURT: That's what the testimony has been so  
18 far.

19 Q Then you actually could also have, I would think, the  
20 system five, would you agree with me, Doctor, that has all five  
21 of these boxes?

22 A Yes, you could.

23 Q Let's go back to claim one of -- excuse me, claim three of  
24 the '683 patent. Doctor, for indirect infringement, once we  
25 get to it, I'm just going to ask you for all these elements,

1 let's go through direct infringement first and identify which  
2 system infringes which claim.

3 A Okay.

4 Q And in each of these system configurations, do you have an  
5 opinion as to whether or not all five satisfy the preamble that  
6 they are electronic sourcing systems as defined by the Judge?

7 A Yes, all five.

8 Q In each of these configurations, does Lawson provide an  
9 accused system, all five system that's capable of having at  
10 least two product catalogs containing data related to items and  
11 items associated with respect to sources?

12 A Yes.

13 Q In each of these scenarios, does all five systems, do they  
14 provide the means for selecting a product catalog to search?

15 A Yes.

16 Q In each of these systems, do they provide means for  
17 searching for matching items among the selected product  
18 catalogs?

19 A Yes.

20 Q In each of these systems, have we seen evidence that shows  
21 that they have the means for building a requisition using data  
22 relating to selected matching item and their associated  
23 sources?

24 A Yes.

25 Q In each of these five system that we've identified, does

1 it have the means for processing the requisition to generate  
2 one or more purchase orders for the selected matching items?

3 A Yes.

4 Q Which of the five systems have we seen have the ability  
5 for converting data relating to a selected matching item and  
6 associated source to data relating to an item and a different  
7 source?

8 A The ones that contain the requisition self-service module.

9 Q So if it had the requisition self-service module, that  
10 would be able to satisfy this last claim element?

11 A Yes.

12 Q So that would be system, two, three, four, and five as we  
13 defined them; is that right?

14 A That's what my diagram says, yes.

15 Q For each of these elements, does Lawson encourage, aid,  
16 abet, or assist their customers to satisfy them?

17 A Yes.

18 Q These two product catalogs, have we seen instances where  
19 Lawson will make catalogs available, multiple catalogs  
20 available to their customers either through external, Punchout  
21 catalogs, or internal catalog databases?

22 A Yes, we have.

23 Q Let's go to claim 26 if we can. Let's do that. If we can  
24 put claim 26 next to claim 28, put those side by side. They're  
25 a little difficult to read, but can you confirm for me, Doctor,

1 that both of these are method claims?

2 A That's correct.

3 Q And both of these have -- the first five elements are  
4 identical?

5 A They are.

6 Q Now, earlier you said the direct infringement, I  
7 understood your opinion to be, would be by the customers  
8 performing the steps of this method claim as well as Lawson  
9 when it hosts a system that can perform the steps of these  
10 claims; is that right?

11 A That's correct.

12 Q So do you have an opinion as to whether or not customers  
13 can perform the step of maintaining at least two product  
14 catalogs on a database containing data relating to items  
15 associated with the respective sources?

16 A Yes, all of the systems do that.

17 Q Okay, all five?

18 A All five.

19 Q Now, the same for claim 28, do you have an opinion as to  
20 whether or not customers, using all five of the systems as they  
21 are configured and defined, can select or -- can perform the  
22 steps of selecting product catalogs to search?

23 A Yes, they can.

24 Q Now, that would be the same for both claim 26 and 28?

25 A Yes, it's the same.

1 Q All right. The next step in these method claims is  
2 searching for matching items among the selected product  
3 catalogs. Do you see that?

4 A I do.

5 Q That's for both claim 26 and claim 28?

6 A Correct.

7 Q We see the ability to search for matching items among the  
8 selected product catalogs in evidence you offered?

9 A Yes. We saw it in the demonstrations.

10 Q Did we see it in documentation?

11 A Certainly.

12 Q That would be for both claims?

13 A For both claims.

14 Q Does all five of the accused Lawson systems have the  
15 ability to, capability of building a requisition using data  
16 relating to selected matching items and their associated  
17 sources?

18 A Yes.

19 Q Can the customers perform that step with all five  
20 configurations that we've defined?

21 A Yes.

22 Q The next step is processing requisition to generate one or  
23 more purchase orders for the selected matching items. Did we  
24 see that that step could be performed in the demonstrations?

25 A We saw it in the demonstrations.

1 Q Can that be performed for all five of their configurations  
2 as we've defined them?

3 A Yes, it can.

4 Q Is there indirect infringement of that as well?

5 A Yes.

6 Q That would be for both claim 26 and claim 28?

7 A Correct.

8 Q Is that because the step there --

9 A Because it's identical.

10 Q Now, the next and last step in claim 26 is determining  
11 whether a selected matching item is available in inventory.  
12 Which of the five configurations of these accused Lawson  
13 systems has the capability of performing that step?

14 A It's, it would be the system that we called system three  
15 which was Punchout, requisition self-service, the procurement  
16 modules, and the platform; system four, which was the EDI  
17 module on top of the procurement system on top of the platform;  
18 and system five, which had Punchout, requisition self-service,  
19 electronic data interchange, the procurement modules, and the  
20 platform.

21 Q Do you have an opinion as to whether or not Lawson  
22 indirectly infringes that claim as well?

23 A Yes, I believe they do.

24 Q How do they do that?

25 A By providing those training courses, that assistance,

1 those manuals, online training, professional services.

2 Q The last element of claim 28, is this converting-data  
3 element that had to do with the ability to find a selected  
4 matching item and an associated source and relating it to data  
5 relating to an item in a different source; do you see that?

6 A I do.

7 Q What systems, in your opinion, satisfy that claim element?

8 A The ones containing the requisition self-service module  
9 which would be two, three, and five.

10 Q Does four have a requisition self-service module?

11 A No.

12 THE COURT: Four is core plus EDI.

13 MR. ROBERTSON: I apologize.

14 Q All right. Do you have an opinion as to whether or not  
15 they indirectly infringe claim 28 in the same manner they  
16 infringe claim 26?

17 A Yes.

18 THE COURT: And is the answer that they do or they  
19 don't?

20 THE WITNESS: The answer is that they do.

21 MR. ROBERTSON: Thank you, Your Honor.

22 Q Claim 29, this was that dependent claim that depends from  
23 claim 28; correct?

24 A Correct.

25 Q So in order to infringe claim 29, you have to satisfy all

1 of the elements of the method claim of claim 28 in order to  
2 infringe claim 29; is that right?

3 A Right.

4 Q So you have to be able to perform that converting-data  
5 step to find items associated with one source and items  
6 associated with another source; correct?

7 A Right.

8 Q Then to infringe this claim, you'd also be able to have to  
9 take that system and have a step of determining whether a  
10 selected matching item is available in inventory; is that  
11 correct?

12 A Correct.

13 Q Which of the systems, as we've identified them, would  
14 infringe or directly infringe claim 29?

15 A Three and five.

16 Q Why is that?

17 A Because they contain the Punchout module that lets us  
18 check inventory externally, the requisition self-service that  
19 allows us to do the conversion using those UNSPSC codes, and  
20 system five also had the EDI module which was the purchase  
21 order and purchase order acknowledgment exchange.

22 Q And does Lawson indirectly infringe claim 29 by assisting,  
23 aiding, abetting, encouraging its customers to perform this  
24 method step?

25 A Yes.

1 Q And do they also indirectly -- actually, strike that. I  
2 think we're done with claim 29. Why don't we go to claim one  
3 of the '172 patent. Again, this is an electronic sourcing  
4 system. Do you see that?

5 A Yes.

6 Q Now, it also uses the term comprising as all these claims  
7 have used. Would you just refresh the jury as to what your  
8 understanding is of the term comprising?

9 A Comprising means including but not limited to.

10 Q So we're going to have to have all of these elements, but  
11 we could have additional elements, and that would make it  
12 non-infringing; is that right? All the elements here are  
13 satisfied?

14 A Correct.

15 Q So, for example, in your demonstrations, there was some  
16 steps in which you had to seek certain approvals from managers  
17 or technical people in order to be able to complete the  
18 requisition and purchase order process?

19 A Right, but that's irrelevant to this claim.

20 THE COURT: Your opinion, they infringe all five  
21 systems or infringement -- if there's infringement, the mere  
22 fact that there is the process of going to the managers, et  
23 cetera, doesn't change the fact that they infringe if you  
24 conclude there's infringement, and that is the way --

25 THE WITNESS: Yes, it is.

1 Q All right, again, this is an electronic sourcing system.  
2 The Courts defined that. Do all five systems, in your opinion,  
3 satisfy this preamble of claim one of the '172 patent?

4 A Yes.

5 Q And is your opinion the same with respect to whether  
6 Lawson encourages or induces its customers to maintain  
7 electronic sourcing systems as defined by the Court?

8 A Yes.

9 Q Does Lawson directly infringe claim one by providing a  
10 database containing data relating to items associated with at  
11 least two vendors maintained so that selected portions of the  
12 database may be searched separately?

13 A Yes, for all five systems.

14 Q Have we seen instances where Lawson will provide --

15 THE COURT: Wait just a minute. Mr. Robertson, so  
16 you are clear, you can't infringe a claim unless you infringe  
17 all the elements of the claims. So he's going down claim by  
18 claim to say do you do this claim, and if you do -- but if he  
19 were down at the bottom, he would have checkmarks in this chart  
20 under direct infringement that were yes, but the answer at the  
21 bottom was no, then there wouldn't be any infringement of the  
22 claim; right?

23 MR. ROBERTSON: That's right.

24 THE COURT: So he's asking -- when he asks about do  
25 they infringe because they have a database containing data

1 relating, et cetera, he's saying, does it actually have that;  
2 isn't that right?

3 MR. ROBERTSON: I should phrase the question, Your  
4 Honor, does the Lawson system satisfy this element of the  
5 claim.

6 THE COURT: Because it takes all elements in order  
7 for there to be an infringement of the claim. The system,  
8 whatever one is accused, has to do all -- has to use all of the  
9 elements or there's no infringement. So I think you better  
10 rephrase that.

11 Q Dr. Weaver, do you have an opinion as to whether or not  
12 all five of the systems, as we've defined them, satisfy the  
13 element of the database containing data relating to items  
14 associated with at least two vendors maintained so that  
15 selected portions of the database may be searched separately?

16 A Yes, I believe they do.

17 Q Have you seen instances where Lawson will implement  
18 multiple vendor data for their customers?

19 MR. McDONALD: Object, Your Honor. That question --  
20 support for this element is outside the scope of his report.  
21 If you look at appendix 23 -- or appendix three at page 23.

22 THE COURT: Appendix three of page 23 of what?

23 MR. McDONALD: Of his report.

24 THE COURT: Is that in volume one or two of his  
25 infringement report here?

1           MR. McDONALD: It was with his initial report. I'm  
2 not sure if that's your question. I have a copy here.

3           THE COURT: Well, they gave me notebooks that have  
4 two volumes of his reports. Which volume are we talking about?

5           MR. McDONALD: I believe it's in volume one, Your  
6 Honor.

7           THE COURT: All right, Mr. Robertson, where is it?  
8 Give me the page, line, et cetera.

9           MR. ROBERTSON: We're trying to look. Appendix what  
10 did you say, Mr. McDonald?

11           MR. McDONALD: Number three at page 23, Your Honor,  
12 is this particular element of the '172 patent claim one.

13

14           (Transcript continued on page 808.)

15

16

17

18

19

20

21

22

23

24

25